

MEMO ENDORSED

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ALEXANDER BETHAM and LYNN
BETHAM,

Plaintiffs,

v.

AVON PRODUCTS INC., et al.,

Defendants.

Case No. 1:23-cv-04681-JGK

NOTICE OF DEFENDANT SHELL USA, INC.'S MOTION TO DISMISS

PLEASE TAKE NOTICE Defendant Shell USA, Inc., formerly known as Shell Oil Company, through counsel, will move the Court, the Honorable John G. Koeltl, United States District Judge, at the United States Courthouse for the Southern District of New York, located at 500 Pearl Street, New York, NY 10007-1312, at a date and time to be determined by the Court, to dismiss this action for lack of personal jurisdiction under Federal Rule of Civil Procedure 12(b)(2) and failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). In the alternative, this action should be transferred to the Southern District of Texas pursuant to 28 U.S.C. § 1404(a). This motion is based on the accompanying Memorandum of Law in Support.

Dated: June 28, 2023

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

/s/ Patrick Elkins

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The Court is in receipt of a motion to dismiss filed by Defendant Shell USA, Inc. ("Shell"). (Dkt. #41-42). This case was reassigned to this Court on June 8, 2023. The Court's Individual Rules of Practice in Civil Cases require any party seeking to file a motion to dismiss to first file a pre-motion letter. See Individual Rule 4.A. Shell did not comply with that requirement, and thus its motion is DENIED as premature.

The Court will, however, construe Shell's memorandum of law in support of its motion as a pre-motion letter. If Plaintiffs do not consent to Shell's intended motion, they shall file a responsive letter not to exceed three pages on or before **July 5, 2023**, setting forth their position. At that time, the Court will either schedule a conference to discuss the anticipated motion or set a briefing schedule.

Shell is ORDERED to review both the docket in this matter and the Court's Individual Rules of Practice in Civil Cases. The Court expects that Shell will address all filings to this Court going forward, and not to judges previously assigned to the matter.

The Clerk of Court is directed to terminate the motion at docket entry 41.

Dated: June 29, 2023
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE